

## Robert W. Sadowski PLLC

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*Via ECF*

July 16, 2020

Hon. Katherine Polk Failla  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 618  
New York, NY 10007

**MEMO ENDORSED**

Re: *United Sand and New York State ex rel. Marianne T. O'Toole, as Trustee of the Bankruptcy Estate of Robert Douglas v. Community Living Corp., et al.* Case No.: 1:17-cv-04007 (KPF)

Dear Judge Failla:

We represent Marianne T. O'Toole, Trustee of the Bankruptcy Estate of the Relator Robert Douglas in the case. At the initial pre-trial conference, the Defendants suggested that the parties conduct mediation prior to engaging in discovery. In conferring with the Plaintiff, we agreed to attend the early mediation if Defendants provided their insurance policy and made a counteroffer to Plaintiffs demand. On July 26, 2019, we asked the Court for an extension of time to July 8, 2020, to report to the Court because Plaintiff had received neither the insurance information nor a counteroffer. Last week on July 8, 2020, we received the insurance policy, and the Court granted another extension to today July 16, 2020 to provide Plaintiff with a counteroffer. Despite another request today for a counteroffer, we have received no communication from Defendants. In fact, Defendants' Rule 26 initial disclosures have also not been served and are now long overdue. Accordingly, Plaintiff does not see the benefit of early mediation before any discovery is conducted.

Respectfully submitted,

s/Robert W. Sadowski

Robert W. Sadowski

Cc: Marianne T. O'Toole

Based on Plaintiff's representations, the Court agrees that mediation at this stage would not prove fruitful. Should the parties jointly wish to participate in mediation at any point between now and the post-fact discovery conference, the Court stands ready to issue a referral.

SO ORDERED.

Dated: July 17, 2020  
New York, New York



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE